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**THE COMMONWEALTH OF MASSACHUSETTS
ADMINISTRATIVE OFFICE OF THE JUVENILE COURT**

Three Center Plaza
Boston, Massachusetts 02108

MARTHA P. GRACE
Chief Justice

April 1, 2004

Proposed Draft Time Standards

The Juvenile Court is inviting comments on the current DRAFT version of the proposed Time Standards which cover delinquency and youthful offender, child in need of services (CHINS), and care and protection cases within its jurisdiction.

This draft was arrived at through the work of a committee comprised of the Hon. Kathryn White, Associate Justice, chair, Ronald Arruda, Clerk Magistrate, Bristol County Division, and Joel West, Chief Probation Officer, Plymouth County Juvenile Court and includes comments from judges, clerks, probation staff and attorneys.

Before finalizing a recommendation to Chief Justice Grace for her consideration as a Standing Order, you are invited to offer any suggestions or comments you may wish to provide to the committee.

The text of the proposed Time Standards follows this message. Comments may be sent by email to: juvenilecourt.standards@jud.state.ma.us or mailed to: Time Standards, Attention: Jane Strickland, Administrative Office of the Juvenile Court, 3 Center Plaza, Boston, MA 02108, whichever is more convenient. Written comments should be received by May 15, 2004.

JUVENILE COURT PROPOSED TIME STANDARDS

CASE TYPE

The Juvenile Court Department has jurisdiction in three major case types including delinquency/youthful offender proceedings, child in need of services proceedings (CHINS) and care and protection/termination of parental rights proceedings. The vast majority of cases addressed by the Juvenile Court fall within the parameters of these three case types. The Juvenile Court has jurisdiction, by statute, of matters ancillary to these three case types including guardianship petitions, paternity complaints, equity petitions and adoption petitions.

The work of the Juvenile Court often reflects shifting community expectations and social science theory regarding children. Those shifts in expectations often unpredictably alter and increase Juvenile Court caseloads. As Juvenile Courts have become established in various geographic areas, there has been an increase in court filings in child welfare matters as institutions come to understand that the Juvenile Court stands ready to address all issues concerning children. In some instances, the Juvenile Court has become the first arbiter of issues more properly addressed by other institutions.

The proposed time standards include interim events which, ideally, should be tracked but due to the limitations of current technology, cannot be monitored accurately for compliance at this time. These events are included for informational purposes and may not have specific times attached to them. Care and Protection cases have certain statutory time requirements which have been included below. Despite the current inability to track interim events, if cases fall outside the established time standards, it would be possible to review individual cases to determine the nature of delay and whether delay can be justified.

I. DELINQUENCY AND YOUTHFUL OFFENDER PROCEEDINGS

- A. Filing of complaint or indictment¹ to adjudication/disposition (bench trial): Six months (180 days).
- B. Filing of complaint or indictment¹ to adjudication/disposition (jury trial²): Eight months (240 days).

Tracking events: 1. Arraignment
2. Pre-trial Conference
3. Bench or jury trial²

¹Indictment of a juvenile as a Youthful Offender proceeds only at the option of the District Attorney for whom there are no time requirements for the exercise of that option. The Juvenile Court suggests that a decision should be made within sixty (60) days of arraignment, but I do not believe we have the authority to order that.

²Juvenile Court now handles jury trials for juveniles in eight (8) of eleven (11) counties, Essex, Middlesex and Norfolk county juvenile jury trials are being heard in District Court.

II. CHILD IN NEED OF SERVICES PROCEEDINGS (CHINS) M.G.L. C. 119 §§39E-H

- A. Filing of application to preliminary hearing: ninety (90) days.

At preliminary hearing:

- a. Petition to issue, or
- b. Petition not to issue and referral for informal assistance for period not to exceed six (6) months, or
- c. Application dismissed

- B. Issuance of petition to adjudication/disposition: six (6) months.³

- C. Expiration of referral period for informal assistance to adjudication/disposition: six (6) months.*

*Twelve (12) months where parents and child have agreed in writing to extension of informal assistance for period not to exceed six (6) months

³Though CHINS cases may be filed as stubborn, runaways, truants or habitual school offenders, in the case of runaways, the CHINS case starts with an application for a warrant for a runaway which may not be served for many months, thus departing from the time standards. Numerous other reasons may delay the final disposition of cases, such as the unavailability or inappropriateness of a home to which the child can return, the statutorily required court monitoring of the administration of antipsychotic medication of children in state custody, and frequently, serious mental health issues which defy easy and quick resolution.

III. CARE AND PROTECTION/TERMINATION OF PARENTAL RIGHTS PROCEEDINGS M.G.L. C. 119, §§24, 26/ C. 210/3

Care and Protection/Termination of Parental Rights cases are governed by statute which incorporated the mandates of the Federal Adoption and Safe Families Act into Mass General Laws in April 1999, as well as by Juvenile Court Rules, so that standards for interim events are already developed. These interim events are included despite the lack of technology to accurately monitor compliance at this time.

- A. Filing of petition to final disposition: Fifteen (15) months/eighteen (18) months.
- B. Trial: Twelve (12) to eighteen (18) months after filing, depending on whether issues are bifurcated, i.e., whether current unfitness of parent(s) is only issue or both current unfitness and termination of parental rights are at issue.⁴
- C. Decision: Within sixty (60) days from the close of evidence.
- D. Findings: Within one hundred twenty (120) days of decision.⁵

- Tracking events:
- 1. Emergency custody hearing M.G.L. c. 119, §24 (also referred to as seventy-two hour hearing): Must occur within seventy-two hours of removal of children from home and placement with the Department of Social Services, except by agreement of parties for continuance for good cause shown.
 - 2. Appointment of Court Investigator (M.G.L. c. 119, §24; Juv. Ct. R.5): After issuance of precept and notice to parents.
 - 3. Filing of court investigator report (Juv. Ct. R.5): Within sixty (60) days of appointment, unless extension granted for good cause.
 - 4. Uncontested Trial: (Juv. Ct. R.11): Anytime after sixty (60) days and notice to all parties, but no later than fifteen (15) months from date of filing.
 - 5. Motion/Status Conference (Juv. Ct. R.6): Ninety (90) days after filing.
 - 6. Pre-trial Conference (Juv. Ct. R.7): One hundred and twenty (120) days after filing.
 - 7. Permanency hearings for children in Department of Social Services' custody: Twelve (12) months from the transfer of custody and annually thereafter.

⁴There is frequently a stipulation to current unfitness before the twelve month date with the issue of termination of parental rights being litigated between twelve (12) and eighteen (18) months from the date of filing.

⁵This represents a deliberate departure from the statute which requires findings within ten (10) days of a decision. That time period dates back to the time when the Juvenile Court did not have jurisdiction

over termination of parental rights cases and has not been changed to reflect the changed jurisdiction. Even in a situation with adequate law clerks, ten days for findings is neither practical nor achievable. At the present time, the lack of law clerks has substantially reduced the ability of judges to meet any reasonable time standards for findings and we are making every effort to address that issue.

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